

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

GREATER BOSTON PLUMBING
CONTRACTORS ASSOCIATION,

Plaintiff,

v.

WILLIAM ALPINE, in his official capacity as
Director of the MASSACHUSETTS
DEPARTMENT OF FAMILY AND MEDICAL
LEAVE,

Defendant.

NO.: 1:20-cv-12283- GAO

DECLARATION OF ROGER GILL

I, Roger Gill, do hereby depose and state as follows:

1. I am the Fund Administrator for the Plumbers and Gasfitters Local 12 Health and Welfare Fund (the "Fund"). In that capacity, I am responsible for administration of the Fund.

2. The Fund provides health and welfare benefits to the members of Plumbers and Gasfitters Local 12, including health insurance, under the terms of a written plan (the "Plan").

Exhibit A attached to this Declaration is a true and correct copy of the Summary Plan Description currently in effect.

3. The Fund is managed by a board of trustees, consisting of four union members and four management members. The Fund has approximately 2,000 such plan participants, plus dependents.

4. When a participant receiving health insurance coverage under the Plan becomes ineligible for such coverage in the next coverage period, the Fund notifies the participant in writing of the upcoming loss of eligibility and of the option to continue health insurance coverage under the Plan by making a monthly payment to the Fund under the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA). Exhibit B is a true and correct copy of an example of such a notice. The monthly payment amount is established annually by the Fund, and reflects the cost of the insurance premium for the participant plus a statutorily mandated administrative charge. It is common for participants to continue their health insurance coverage under COBRA if they become ineligible for continued coverage for any reason.

5. The Fund does not necessarily have knowledge of whether any participants have lost eligibility for health insurance coverage as a result of having taken paid family or medical leave under G.L. c. 175M, the Paid Family and Medical Leave Act (“PFMLA”). This is because there is no requirement for participants to inform the Fund when they take paid family or medical leave under the PFMLA. Rather, participants communicate directly with their employers, not with the Fund, about taking PFMLA leave.

6. However, I am not aware that any participant has ever in fact lost health insurance coverage during, or as a result of taking, paid family or medical leave under the PFMLA. No participants or their employers have ever informed the Fund that they lost their health insurance coverage during, or as a result of taking, PFMLA leave.

7. Under the terms of the Plan, health insurance coverage is determined in six-month periods (called the “Coverage Period”), and eligibility for health insurance coverage in each six-month Coverage Period is based on hours worked in a *previous* six-month period (called the “Eligibility Period”). A participant who works at least 600 hours in any six-month Eligibility

Period qualifies for health insurance coverage in the subsequent six-month Coverage Period.

Thus, participants entitled to health insurance in any Coverage Period remain covered throughout that entire six-month Coverage Period, regardless of whether they take PFMLA leave during that Coverage Period. As a result, a participant's eligibility in a Coverage Period would not be affected by the participant taking PFMLA leave during that Coverage Period. The rules governing eligibility are explained in more detail in Section I of the Summary Plan Description (Exhibit A).

8. Even if a participant does not work the necessary 600 hours during an Eligibility Period, the participant could still maintain coverage during the subsequent Coverage Period through other means, including through self-payment or the use of banked hours from the participant's Hour Bank. The Hour Bank is a mechanism whereby, when a participant accumulates more than 600 credited hours in any Eligibility Period, the excess hours are credited to the participant's Hour Bank for use in future periods. See Exhibit A at Section 1(I)(C). One important purpose of the Hour Bank is to help participants maintain continuous health insurance coverage despite temporary periods of unemployment due to many circumstances, including the seasonal nature of the construction industry.

Signed under the pains and penalties of perjury, this 17th day of June 2022


Roger Gill